

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE OPTOMETRY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

THOMAS A. ELSON, O.D.,
RESPONDENT.

FINAL DECISION AND ORDER
90 OPT 021

The parties to this action for the purposes of Wis. Stats. sec. 227.53 are:

Thomas A. Elson, O.D.
541 Harbor Lt. Ct.
Neenah, WI 54956

Optometry Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Thomas A. Elson, O.D., (D.O.B. 05/24/39) is duly licensed as an optometrist in the State of Wisconsin (license #1305). This license was first granted on August 6, 1966.

2. Dr. Elson's most recent address on file with the Wisconsin Optometry Examining Board is 541 Harbor Lt. Ct., Neenah, WI 54956.

3. At all times relevant to this matter, Dr. Elson was married to Mary B. Elson (D.O.B. 02/03/45).

4. At all times relevant to the facts stated herein, Mary B. Elson suffered from chronic migraine headaches and was diagnosed in July of 1989 as being a major narcotics abuser as a consequence of her misuse of the drugs Demerol, Isocet and Cafergot.

5. That on or about November 1, 1985, Dr. Elson misappropriated blank prescription forms from Dr. Joseph F. Vosnek who, at the time of the misappropriation, was working with the Wausau Medical Center in Wausau, Wisconsin.

6. That commencing in November 1985, and continuing through May 2, 1989, Dr. Elson wrote prescriptions under the name of Dr. Joseph F. Vosnek on forms showing the name of Dr. Joseph F. Vosnek and forged Dr. Vosnek's signature on these prescriptions.

7. That between November 1, 1985, and May 2, 1989, the total number of prescription forms forged by Dr. Elson using Dr. Vosnek's name exceeds 120.

8. All of the forged prescriptions prescribed drugs for Mary B. Elson.

9. Dr. Elson presented each of the forged prescriptions, except for one, to registered pharmacists in order to obtain prescription drugs illegally on behalf of his wife, Mary B. Elson. The number of times these forged prescriptions were filled and refilled at the request of the Respondent exceeds 200.

10. In all cases where the prescriptions were filled or refilled, Dr. Elson provided the prescription drugs to his wife, Mary B. Elson for her use and in no case did Dr. Elson use any of the illegally obtained drugs for his own personal use.

11. The consequence of Dr. Elson's forging the above-mentioned prescriptions, obtaining the above-mentioned drugs illegally, and providing the illegally obtained drugs to his wife, was to enable his wife, Mary B. Elson to abuse drugs over a period of time extending beyond four years.

12. On or about July 30, 1991, in the Circuit Court for Outagamie County, in Case #91CM547, Dr. Thomas A. Elson was convicted of the crime of altering a prescription in violation of sec. 450.11(7)(A) of the Wis. Stats.

13. On or about July 30, 1991, in the Circuit Court for Outagamie County, in Case #91CM547, Dr. Thomas A. Elson was placed on probation for 18 months, and the conditions of probation included the following:

- a. No use or possession of controlled substances except by prescription from a physician;
- b. The payment of costs;
- c. No further law violations during the period of probation.

FACTS IN MITIGATION

14. The scheme described above of Dr. Elson forging signatures on behalf of his wife in an effort to illegally obtain prescriptions was discovered by police on or about May 1, 1989.

15. Commencing shortly thereafter, both Dr. Elson and his wife sought medical treatment and counseling in order to more appropriately identify and handle the problems facing both of them and their family. The Elsons now have in place a treatment plan for Mrs. Elson's migraine headaches and the Elsons continue in family counseling.

16. Dr. Elson, acknowledges the inappropriateness of his conduct and the lack of good judgment portrayed in the facts stated herein in relation to his ability to responsibly handle demands placed upon him by his wife for the alleviation of pain and other symptoms of her illness.

17. Dr. Elson admits that he failed to show appropriate good judgment in the handling of this long term illness and family dysfunction. However, it is represented to the Department of Regulation and Licensing by Dr. Elson and his attorney, Donald R. Zuidmulder, that the Respondent has never illegally used any drug and has never supplied any drug illegally to any other person besides Dr. Elson's wife, Mary B. Elson.

CONCLUSIONS OF LAW

1. The Wisconsin Optometry Examining Board has jurisdiction to act in this matter pursuant to sec. 449.07(1).

2. The Wisconsin Optometry Examining Board is authorized to enter into the attached Stipulation pursuant to Wis. Stats. sec. 227.44(5).

3. The conduct of Dr. Thomas A. Elson described above constitutes unprofessional conduct within the meaning of sec. 449.08(1) of the Wis. Stats.

4. By the conduct described above, Respondent Dr. Thomas A. Elson engaged in unlawful and unprofessional conduct contrary to 449.08(1)(e) and 449.07(1)(f) of the Wis. Stats.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED: That the Stipulation of the parties, attached hereto, is accepted and approved.

IT IS FURTHER ORDERED, that the optometrist license of Thomas A. Elson, Respondent, license #1305, shall be, and is hereby suspended for a period of three years, commencing on the 10th day following the date of this Order and continuing for the consecutive three years thereafter. During the suspension, the Respondent may not practice optometry and may not advise any person or function as a consultant in the practice of optometry.

IT IS FURTHER ORDERED, that the suspension of the license of Dr. Thomas A. Elson, shall be, and is stayed for a period of three years, conditioned on his complying with all of the following:

1. The surrender of his therapeutic (TPA) certificate and his refraining from prescribing any therapeutic pharmaceutical agents to anyone. Therapeutic pharmaceutical agents are those described in RL 10.01(10), Wis. Adm. Code.

2. Respondent must remove all therapeutic pharmaceutical agents from the business premises in which he currently works (or subsequently works during the period of suspension), and may not keep on any business premises in which he works, nor purchase, nor prescribe any therapeutic pharmaceutical agents. Respondent must document the removal of all therapeutic pharmaceuticals agents from the premises in which he works by submitting to the Department of Regulation and Licensing, within ten days from the date of this Order, a notarized statement describing the removal and disposal of the same, which statement shall include a full inventory of all drugs removed from the premises and a description of how they were disposed of. In addition, Respondent must not work in any premises during the term of his suspension where therapeutic pharmaceutical agents are present or prescribed by other optometrists.

3. Respondent shall fully comply with all terms and conditions of his probation as established by the Circuit Court and by his probation agent.

4. Respondent shall arrange with his probation agent for the submission, under signature of his probation agent, to the Department of Regulation and Licensing of quarterly reports indicating his current compliance with the requirements of probation, the required reports shall commence on January 1, 1992 and shall continue each three months thereafter until his successful completion of probation.

5. Respondent shall submit written quarterly reports to the Optometry Examining Board, P.O. Box 8935, Madison, WI 53708-8935, stating under oath, that he has neither dispensed nor prescribed therapeutic pharmaceutical agents to his patients during the time of his suspension and that he is in full compliance with all current Wisconsin statutes and administrative rules on the practice of optometry. The required reports shall commence on January 1, 1992 and shall continue each three months thereafter until the Respondent's successful completion of this three year suspension.

6. Respondent shall continue with family counseling and counseling relating to the drug addiction, dependency and drug misuse by his wife and shall have the counselor report to the Board on a quarterly basis the status of that counseling, including the status of Respondent's compliance with this Order and the progress made during the past quarter by Respondent. These quarterly reports shall commence on January 1, 1992, and shall continue each three months thereafter until the Respondent's counselor certifies to the Optometry Examining Board that the Respondent and his wife are fully capable of refraining from misuse of drugs without further assistance of counseling.

7. During the time of Respondent's three year suspension, Respondent shall not violate any criminal law or violate any statute, administrative rule or regulation relating to the prescribing or use of drugs or relating to the practice of optometry.

8. Respondent shall pay the partial costs of this disciplinary proceeding to the Department of Regulation and Licensing, P.O. Box 8935, Madison, WI 53708-8935, as follows:

\$500 on January 2, 1992;
\$500 on April 2, 1992; and
\$500 on July 2, 1992.

IT IS FURTHER ORDERED, that in the event, Respondent fails to comply with any provision of this Order, the stay of the suspension of Respondent's license may, at the discretion of the Optometry Examining Board, be lifted and the suspension of his license be imposed. Respondent specifically waives his right to object to the lifting of that stay and hereby waives his right to any hearing on the appropriateness of the lifting of the stay.

IT IS FURTHER ORDERED, that violation of any term or condition of this Order shall constitute grounds for revocation of Dr. Elson's license to practice optometry in the State of Wisconsin.

IT IS FURTHER ORDERED, that Thomas A. Elson shall not be eligible to apply for a TPA certificate, as defined in RL 10.01(9), Wis. Adm. Code, for the period of 3 years and 10 days subsequent to the date of this Order. At the time that Respondent, Thomas A. Elson is eligible for applying for the issuance of a TPA certificate, he shall submit a new application for the issuance of the same. No TPA certificate will be granted to Respondent unless he submits with his application proof of compliance with all requirements for the issuance of a new TPA certificate along with proof of having successfully completed the following continuing education during the three years of his suspension:

a) A total of forty-five (45) hours of Board approved continuing education in the use of therapeutic pharmaceuticals and the removal of superficial foreign bodies from an eye or from an appendage to the eye. Of these forty-five (45) hours, eleven (11) hours must be in the diagnosis and management of glaucoma.

b) The forty-five (45) hours of continuing education must follow the biennial renewal schedule for renewals of TPA certificates, which is the following: Thirty (30) hours shall be completed during the first two years of the suspension and seven (7) of these thirty (30) hours shall be in the diagnosis and management of glaucoma, and fifteen (15) hours shall be completed during the third year of the suspension and four (4) of these fifteen (15) hours shall be in the diagnosis and management of glaucoma.

IT IS FURTHER ORDERED, that upon successful completion of all conditions of the stay as set forth in paragraphs numbered 1 through 8 of this Order, the Respondent may petition for return of full and unrestricted licensure subject to the provision as set forth above that he make new application for the TPA certificate.

Dated at Madison, Wisconsin this 3 day of FEBRUARY, 1992.

OPTOMETRY EXAMINING BOARD

Lynda Finner, MD
Chairperson

CJH:mkm
ATY-1723/ATY21196/12-12-91

STATE OF WISCONSIN
BEFORE THE OPTOMETRY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
THOMAS A. ELSON, O.D.,	:	90 OPT 021
RESPONDENT.	:	


It is hereby stipulated between Thomas A. Elson, personally on his own behalf and by his attorney, Donald R. Zuidmulder; and Charles J. Howden, attorney for the Department of Regulation and Licensing, Division of Enforcement as follows that:

1. This Stipulation is entered into as a result of a pending investigation of Thomas A. Elson's ("Respondent") licensure by the Division of Enforcement (90 OPT 021). Respondent consents to the resolution of this investigation by Stipulation and without the issuance of a formal complaint.
2. Respondent understands that by the signing of this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.
3. Respondent agrees to the adoption of the attached Final Decision and Order by the Optometry Examining Board.
4. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings.
5. If the Board accepts the terms of this Stipulation, the parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties.
6. The parties to this Stipulation agree that the attorney for the Division of Enforcement may appear before the Optometry Examining Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the Stipulation.
7. Attached to this Stipulation is the current licensure card of Respondent. If the Board accepts the Stipulation, Respondent's license shall be reissued in accordance with the terms of the attached Final Decision and

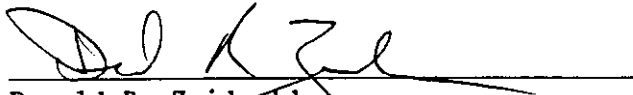
Order. If the Board does not accept this Stipulation, the license of Respondent shall be returned to him with a notice of the Board's decision not to accept the Stipulation.

8. The Division of Enforcement joins Respondent in recommending the Optometry Examining Board adopt this Stipulation and issue the attached Final Decision and Order.

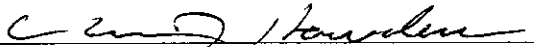
Date: 1-23-92


Thomas A. Elson, O.D., Respondent

Date: 1-23-92


Donald R. Zuidmulder
Attorney for Respondent
345 South Adams
P.O. Box 926
Green Bay, WI 54305

Date: 1-24-92


Charles J. Howden, Attorney
Division of Enforcement

CJH:vec
ATY-1724

NOTICE OF APPEAL INFORMATION

**(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each, and the identification
of the party to be named as respondent)**

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Optometry Examining Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Optometry Examining Board

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Optometry Examining Board.

The date of mailing of this decision is February 5, 1992.